

MAY 22 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

CODY WOODSON KLEMP,

Petitioner - Appellant,

v.

K. W. PRUNTY, Warden, et al.,

Respondents - Appellees.

No. 01-56180

D.C. No. CV-97-00335-RT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert J. Timlin, District Judge, Presiding

Argued and Submitted September 9, 2002
Pasadena, California

Before: THOMPSON, RAWLINSON, Circuit Judges, and Schwarzer, District
Judge.**

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable William W Schwarzer, Senior United States District Judge
for the Northern District of California, sitting by designation.

1. Appellant Cody Klemp is correct that *Bunney v. Mitchell*, 262 F.3d 973, 974 (9th Cir. 2001), compelled calculation of the tolling period to include the thirty-day period following the decision of the California Supreme Court. However, as Klemp concedes, his petition was still untimely.
2. Klemp was not entitled to equitable tolling because he failed to “quickly . . . return[] to federal court” after exhausting his state claims. *Guillory v. Roe*, No. 01-56343, 2003 WL 2013086 (9th Cir. May 5, 2003). In *Guillory*, we ruled that a seven-month delay in returning to federal court was dilatory. *See Id.* Klemp procrastinated for almost a full year.
3. Limited access to the law library, a change in work schedule and lack of access to documents in his father’s control are not sufficiently extraordinary to justify equitable tolling. *See Frye v. Hickman*, 273 F.3d 1144, 1146 (9th Cir. 2001).

AFFIRMED.